

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FISH, WILDLIFE AND PARKS

Call to Order: By **CHAIRMAN DANIEL FUCHS**, on February 15, 2001 at 3 P.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Daniel Fuchs, Chairman (R)
Rep. Joe Balyeat, Vice Chairman (R)
Rep. George Golie, Vice Chairman (D)
Rep. Keith Bales (R)
Rep. Debby Barrett (R)
Rep. Paul Clark (D)
Rep. Ronald Devlin (R)
Rep. Tom Facey (D)
Rep. Nancy Fritz (D)
Rep. Steven Gallus (D)
Rep. Larry Jent (D)
Rep. Jeff Laszloffy (R)
Rep. Diane Rice (R)
Rep. Rick Ripley (R)
Rep. Allen Rome (R)
Rep. Jim Shockley (R)
Rep. Donald Steinbeisser (R)
Rep. Bill Thomas (R)
Rep. Brett Tramelli (D)

Members Excused: None.

Members Absent: Rep. Gail Gutsche (D)

Staff Present: Linda Keim, Committee Secretary
Doug Sternberg, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 538, 2/12/2001; HB 554,
2/12/2001; SB 54, 2/12/2001
Executive Action: SB 54; HB 282; HB 454; HB 520;
HB 492; HB 554; HB 538; HB 388

HEARING ON HB 538

Sponsor: REPRESENTATIVE PAUL CLARK, HD 72, TROUT CREEK

Proponents: Jeff Barber, Montana Wildlife Federation
Jeff Hagener, Fish, Wildlife & Parks (Written)

Opponents: None

Informational Witnesses: Jean Johnson, Montana Outfitters
and Guides Association

Opening Statement by Sponsor: REP. PAUL CLARK, HD 72, TROUT CREEK said HB 538 will require proof of prior license or successful completion of a hunter safety and education course for a first-time applicant for a Montana hunting license. The only change would be provisions that did apply to bow hunters now also apply to rifle hunters. With this Bill, we are insuring that all folks who go into the woods with a rifle are either experienced or educated, or both, because a rifle is potentially more dangerous than a bow and arrow.

Proponents' Testimony:

Jeff Barber, Montana Wildlife Federation said this is primarily aimed at new residents of Montana who don't have any experience in the field and want to go hunting. It is a good idea to require some level of education or some proof that they have done this sort of thing before. Submitted letter from Ron Moody, a MWF board member, **EXHIBIT(fih38a01)**.

Jeff Hagener, Fish, Wildlife and Parks presented written testimony in support of HB 538 which he followed in his remarks to the Committee, **EXHIBIT(fih38a02)**.

Opponents' Testimony: None

Informational Witnesses:

Jean Johnson, Montana Outfitters and Guides Association, speaking on behalf of herself, told a story about her life as a newly-wed who was married to an avid hunter. She eventually learned about rifles from her hunter husband. She said that if she would have had to take a hunter safety course at that point, she would have stayed home and sulked. If you want to preserve the hunting heritage, you will have to appeal to the women and get more women out in the field. It is the woman who supports the man and makes it comfortable for him to hunt and want to hunt some more. Also

have to support the kids, because of the expenses necessary to be equipped to go out in the field. Sees this Bill as a possible impediment for the potential hunter. Likes the idea of it being delayed for another year and the requirement of a hunter education course, but questions whether it is really necessary.

Questions from Committee Members and Responses:

REP. LASZLOFFY asked how many rifle hunting licenses were issued last year.? **Jeff Hagener** replied 190,000. **REP. LASZLOFFY** asked how many people were wounded last year? **Jeff Hagener** said less than five. **REP. LASZLOFFY** asked if they knew how many had a hunter safety class? **Jeff Hagener** said they did not know that.

REP. BALYEAT said he sees some complications. His brother was an avid bow hunter, then quit for several years, until his Dad drew a special permit and his brother wanted to join them. Couldn't find any proof of previous bow hunting license. He worked evenings, so it wasn't possible for him to take a class. Could not get his license again, even though they had photos of him on bow hunting trips. Is leary of inflicting that same situation on rifle hunters unless there is a way to make it more flexible when it is quite clear they have hunted previously. **Jeff Hagener** refers to Page 4, Lines 3-4. He said that under the archery provision, they adopted the policy of allowing a person to sign an affidavit for the year they purchased the stamp in Montana or elsewhere. The department would look at doing something similar to that with rifle hunting.

REP. BALYEAT asked if they thought about the implications of putting additional impediments on people to take up the sport, as there will be less hunters and less political clout? **Jean Johnson** has made a good point, aren't we going to be in the minority? **REP. CLARK** said that is a big issue, but that these are reasonable impediments. The problem of hunting is more a problem of PR than anything else. They get more negative PR when a black bear hunter shoots a grizzly bear, and when someones cow gets shot, than they would get from someone getting a license.

REP. BALYEAT said the Bill mostly targets resident Montanans; would you agree to an Amendment excluding children that have been taught by another family member? **REP. CLARK** said he understands that now if you are under 18 and haven't had a hunting license in Montana, you still have to take the course. If you are about to turn 18, you still have two years to get a hunting license. Anyone who has had a hunting license anywhere in their life experience, that still has the hunting license, can use that as proof that they have experience. Currently, if we implement the suggested delay, anyone in the state has two years to get that hunting license.

REP. GALLUS asked where funding will come from for adult hunter education? **Jeff Hagener** said a fiscal note was not requested for this. The funding would come out of normal sources, probably the general license account. **REP. GALLUS** asked if people really learn about hunting in the classroom, or in the field? **Jeff Hagener** said from personal experience, they learn a lot from the course.

REP. GALLUS asked about picking a client up from the airport who will be going hunting early the next morning. How do they get a set aside license? **Jean Johnson** said they get it from FWP and it comes in April. **REP. GALLUS** asked if she sees any adverse consequences for the outfitting industry if the out of state client were denied at the last minute? **Jean Johnson** said if a husband and wife were going to book a trip together, the wife would have the summer and fall to take a hunter safety course if she had never hunted before. It would be an impediment. **REP. GALLUS** asked if other states and countries had a hunter education program where that person would be okay to hunt in Montana? **Jean Johnson** said she did not have that information.

REP. BALES asked how this will be implemented, as it appears the applicant will have to have his previous year's hunting license in hand to get that license as a resident. As a non-resident, would I have to send a copy of a previous hunting license in with my application? **Rich Clough, FWP** said the procedures have not yet been established on how they implement that. With bow hunting, they use an affidavit. If you find they are lying, then you have a case against them for falsifying the statement. It would probably be the same with a rifle. **REP. BALES** said he tried to get one but was told they had to see the last license. **Rich Clough** said that did change, and it was because of some of the situations that arose, as **REP. BALYEAT** alluded to.

Closing by Sponsor:

REP. CLARK said bow hunters already have to do this; they go through it every year. Shouldn't be discriminating against bow hunters, when rifle hunting is more dangerous. The situation with a rifle is you are taking a long shot; 400-500 yards, shots that people should not be taking, and we are killing grizzly bears. This is bad PR for hunting in general. How many people have confidence that everyone knows the difference between an angus and a moose?

Hearing on HB 538 ends.

HEARING ON HB 554

Sponsor: REPRESENTATIVE PAUL SLITER, HD 76, SOMERS

Proponents: Jeff Hagener, Fish, Wildlife and Parks
Jean Johnson, Montana Outfitters & Guides Assn.
Bob Gilbert, Walleyes Unlimited
John Wilson, Montana Tourt Unlimited

Opponents: None

Informational Witnesses: Jeff Barber, Montana Wildlife Federation

Opening Statement by Sponsor:

REP. PAUL SLITER, HD 76, SOMERS, said HB 554 will increase certain nonresident hunting and fishing fees; and require that a nonresident possess a wildlife conservation license as a prerequisite to the purchase of a wild turkey tag.

Proponents' Testimony:

Jeff Hagener, Fish, Wildlife and Parks said FWP supports HB 554. FWP is at the point where they will have to either increase fees or cut programs. He presented a list of account balances, EXHIBIT (fih38a03), written testimony and charts, EXHIBIT (fih38a04) which he followed in his remarks to the Committee.

Jean Johnson, Montana Outfitters and Guides Association, said she represents 23,000 nonresidents; 1/3 of whom are clients of outfitters. On the one hand, when the department asked about supporting a price increase for nonresidents earlier in the session, she said that was supportable and had actually suggested that in the past. The increase, in her mind, was about 25%. As you can see, some of the increases run as high as 111%. There is a need to reconsider. Our agreement for fee increase went more to the non-guided B-10 and B-11 nonresident, because many of them utilize the block management program and we thought they should contribute. However SB 285 would increase their conservation license by \$10 and they would contribute in that way. MOGA supports the department and its work. Have concerns about enforcement when the level goes down in the field, because people have too much overtime and can't be out there, or when flyovers are cancelled because the budget has run out. We support the department having more money, and we can justify the increase at a certain level to the nonresidents because Montana has very liberal hunting opportunities, not to mention the wildlife population, and there has been no license increase since 1994,

except for the guaranteed license. But basing the proposed increases on a comparison with other states, if that is the number one criteria, it is misguided. The budget ought to come first; they ought to determine what they need and can they do it without rising to the level of other states. We do have the best moose, sheep and goats in America, but we are already discriminating against the nonresidents by limiting the number of permits so severely. And, \$1000 for a nonresident moose, sheep and goat license. We talk about those people as being nonresident, but when it suits us, we say that some of those are our relatives. I think it is important that blue collar hunters from across the country have an opportunity to apply for a license to hunt Montana's premier species, but we shouldn't forget those people. They are not the ones who come back to the state and buy the ranch and shut us out. We talk about giving nonresidents a break over Idaho, Wyoming and Colorado; well, why not. If we don't need the money in the budget, why not give them a break. Pleased that the B-1 is not a prerequisite on the turkey tag. We will offer an amendment to the special elk permits on page 8, lines 27-29, that this would not apply for those who buy a guaranteed license. They are already paying \$975 for the elk-deer, \$875 for the elk, \$850 for combination deer. One outfitter has his clients apply for a special antler-less permit, because if they have an opportunity to take a cow, rather than a small elk, that is what he encourages them to do. The MOGA amendments seek to drop the \$1000 down to \$750; we also would back off the black bear license price. The reason it is so high is to cut down on the demand. Currently we let nonresidents buy that license over the counter, maybe we should have considered leaving that in HB 142 so the department could manage the numbers that way, without doing it in a punitive manner by raising the price. Another point; in Utah they have an automated licensing system where they key in the credit card for the \$5 drawing price, and then they don't charge the full amount of the moose, sheep or goat cost until the permit is actually drawn. When people apply for those licenses, they put \$750 down, or \$1000 down. FWP has that amount of money for several months; there has to be some interest received. They might consider waiving the drawing fee. Also, regarding the spread between the residents and the nonresidents. Residents should pay less, but they should be paying more than they currently are. People can afford a higher license price, they can pay more than \$13 and \$17. Would suggest some sort of increase happens in the next Session. FWP is funded 67% of nonresident dollars, except for 8% of general fund dollars, and the remainder is resident dollars. Upcoming SB 285 will be a \$2 increase for residents, another \$10 increase for nonresidents. Hopes this committee will pass that Bill. There is a high rate of discrimination between residents and nonresidents. When you get beyond 10 times the amount, it is

a risky matter. Please consider the amendments, **EXHIBIT(fih38a05)** and pass the bill as amended.

Bob Gilbert, Walleyes Unlimited of Montana said they support Sections 1 and 2 of the Bill which increase fishing licenses, please give your support.

John Wilson, Montana Trout Unlimited presented written testimony which he followed in his remarks, **EXHIBIT(fih38a06)**. They would also support an increase in the cost of resident fishing licenses as well. At current levels, fishing licenses are a bargain for both residents and nonresidents.

Opponents' Testimony: None

Informational Witnesses:

Jeff Barber, Montana Wildlife Federation said they understand the department's need for more revenue, but about 30% of their membership is nonresident. Those members keep saying "quit picking on us", so while they understand the need for the Bill, want to respect the wishes of their out of state members. Agrees with **Jean Johnson's** comments, that the department should do their budget first and come in with their numbers later. If the Bill passes this time, fine, if not they will be back next Session to try again.

{Tape : 1; Side : B}

Questions from Committee Members and Responses:

REP. DEVLIN asked what percentage of fees are collected from nonresidents? **Jeff Hagener, FWP** said it is 67-68% of our license fees, not including the money from the federal government and some other places. **REP. DEVLIN** asked what proportion of hunter days or hunter hours do nonresidents make up? **Jeff Hagener** said they don't have that kind of data. **REP. DEVLIN** asked what is the ratio of hunting licenses, resident and nonresident? **Jeff Hagener** said last year they sold 174,000 nonresident conservation licenses and that is the prerequisite to fishing or to any of the other individual licenses. **REP. DEVLIN** asked if we are going to raise nonresident fees, who uses this, residents or nonresidents? **Jeff Hagener** said that overall they sell 450,000 conservation licenses. If you subtract the 174,000 from that, 276,000 are residents. **REP. DEVLIN** said it would be approximately 2 to 1 residents who use it on the conservation licenses. **Jeff Hagener** said, yes, and on the hunting licenses remember nonresidents are restricted, there is a cap on 17,000 for big game licenses.

REP. GALLUS said there is a lot of administration in the two day stamp on fishing licenses and asked if they would be open to the idea of having a one week stamp and a season stamp, and eliminating the two day stamp? Most people that come fish for more than two days; they will buy 2-3 of the two day stamps before they are out priced to the season stamp. **Jeff Hagener** said there was a Bill along that line in the Senate, but it was just for residents. They do have the flexibility currently, and that question has come up. They are planning to look at it.

REP. LASZLOFFY asked if any Canadian Provinces were included in their market average? **Jeff Hagener** said they looked at the Provinces originally, but their prices were higher yet, so this was for state only.

REP. RIPLEY said on Table Two, Years 2002-2003, you have an expenditure drop of \$2 million, what does that represent? **Dave Mott, FWP** explains it is because of the capital program where they have future fisheries, hatchery maintenance, the things that are appropriated in HB 5 and they make assumptions on how they spend that so they can reserve funding on those outlays. That is why it looked skewed in the period you are looking at. We assume they will all be spent in a given period, when in fact they will be spread out a year or two. The way the chart was made, they are all stacked in the year they were appropriated.

REP. BARRETT asked if FWP uses any money from residents and nonresident hunting and fishing licenses for land acquisition? **Jeff Hagener** said no, not from the general license account.

REP. BALES said a good share of the money from B-10 licenses goes into the wildlife habitat enhancement account. How much is that currently? Where will this increase go? **Dave Mott, FWP** said he had an unofficial fiscal note which he would follow in his explanation. The B-10 license, the big game combination license; \$77 is set aside to fund Habitat Montana, the program for primarily conservation easements. The General License Account is mainly for day to day operations of the agency, none of the money to fund Habitat Montana is in this account; it is all set aside in the Habitat Montana account. \$77 of the B-10 is set aside, then 20% of that license, plus several others of any increase, goes into that same Habitat Montana account. The fiscal note summarizes two accounts. The General License Account for the first year will generate \$2.1 million because it is implemented part-year. The second year, fiscal year 2003, it goes up to \$3.7 million. That money goes into the account that we were showing you on these charts. The rest of the money that **REP. BALES** was referring to, 20% of the increase on Class B-7 Deer A, Class B-10 Big Game Combo, Deer Combo, Deer Combo (Landowner), Moose,

Mountain Goat, Mountain Sheep, Antelope, and Black Bear is used to fund the Habitat Montana Program. There is a secondary benefit going to that particular program as a result of this license fee increase. **REP. BALES** said you already say we are at 67%, if we drop this in, what percentage of your revenue would be from nonresidents? **Dave Mott** said it is about 65% currently. This would bump it up to about 70%.

CHAIRMAN FUCHS stated that the draft copy of the fiscal note **Dave Mott** used was for the purposes of discussion only and would not be entered into the record as it was unofficial.

Closing by Sponsor:

REP. SLITER said Montanans were very lucky to have the kind of game populations and fish populations that exist. Agrees that we should look at the current FWP programs that they oversee. Over the years, the legislature has dictated to FWP a lot of these programs. A lot of them are in statute, not necessarily in rule; or just programs that are in place to implement different laws that we have passed. If we are to continue to have the kind of nonresident business that we currently have, we want to make sure we are maintaining and managing our fish and wildlife populations in an appropriate manner because the revenue stream will go down even more if those populations go down. As state legislators, our constituents are the ones we are here to represent. If we do reduce the amount of the increase in the fee structure, as was handed out in the Montana Outfitters and Guides Amendment, we are nearly guaranteeing that an increase in resident fees will be proposed sooner than if we are to pass the fee increase as presented in the Bill as it stands. The Fiscal Note will be ready for consideration if this Bill goes to second reading.

HEARING ON SB 54

Sponsor: **SENATOR GLENN ROUSH, SD 43, CUT BANK**

Proponents: **Jeff Hagener, Fish, Wildlife and Parks**
Jim Jacobsen, Montana Veterans Affairs Division
Hal Manson, American Legion of Montana

Opponents: **None**

Informational Witnesses: None

Opening Statement by Sponsor:

GLENN ROUSH, SD 43, CUT BANK said SB 54 will allow Montana residents who enter active military service to retain that

resident status for hunting, fishing or trapping license purposes. If they entered active military service as a Montana resident, their eligibility will not change, and they may obtain the license without penalty.

Proponents' Testimony:

Jeff Hagener, Fish, Wildlife and Parks presented written testimony which he followed in his remarks to the Committee, **EXHIBIT (fih38a07)**.

Jim Jacobsen, Montana Veterans Affairs Division said this is the state agency that represents 90,000 veterans and 140,000 family members. They support SB 54.

Hal Manson, American Legion of Montana said it is an organization made up of former military people, veterans. They believe that young people who go into the military service and remain Montanans, even though they are serving elsewhere, should be treated as Montanans. They also should be given the opportunity if they are stationed somewhere else, to recreate as fishermen and hunters. That should be allowed, plus they should be allowed to come back home when they are on leave and be able to hunt and fish in their home state. Requests passage of SB 54.

Opponents' Testimony: None

Informational Witnesses: None

Questions from Committee Members and Responses:

REP. SHOCKLEY stated that Federal Law already provides for this. He will vote for this Bill, but they neither gain nor lose residency by virtue of their military service. Doesn't think it is needed.

CHAIRMAN FUCHS asked **REP. CINDY YOUNKIN, HD 28, BOZEMAN** to speak on SB 54. **REP. YOUNKIN** said they do need this Bill, because she has an active duty serviceman that lives in her district that got fined by the Montana FWP because he obtained a resident license and he also obtained one in another state where he was stationed. Texas automatically issued the license because he was stationed there on active duty in the military. Montana Law says if you get a resident license in any other state, you are automatically disqualified from getting a resident license in Montana. It cost him a lot of money to get out of trouble. Regardless of what Federal Law says, they couldn't seem to get it straightened out with FWP and this Bill would correct the problem.

Closing by Sponsor:

SENATOR GLENN ROUSH said this Bill wouldn't require a lot of decision making, but it is something we owe to Montana Veterans. **REPRESENTATIVE YOUNKIN** will carry the Bill on the House floor.

Close Hearing on SB 54.

EXECUTIVE ACTION ON SB 54

Motion/Vote: **REP. GALLUS** moved that **SB 54 BE CONCURRED IN. Motion carried unanimously.**

EXECUTIVE ACTION ON HB 282

Prior to the meeting, written information about compliance of other states with the social security number requirement on hunting and fishing licenses was presented by **Mary Ann Wellbank, Dept. of Public Health and Human Services (DPHHS), EXHIBIT(fih38a08).**

CHAIRMAN FUCHS said HB 282 is the Bill to eliminate Social Security Numbers on Hunting and Fishing Licenses and asked for a DO PASS motion.

Motion: **REP. LASZLOFFY** moved that **HB 282 DO PASS.**

Motion: **REP. LASZLOFFY** moved that **AMENDMENT 01 TO HB 282 BE ADOPTED.**

Discussion:

REP. LASZLOFFY said there is some question about our eligibility for certain federal funds if social security numbers are eliminated from hunting and fishing licenses. They don't want to lose those funds, and are working through the Governor's office. They will have letters going to President Bush and to Governor Tommy Thompson who is now in charge of DPHHS for health and human services on the federal level. We feel confident that we can get those waivers, now that the Federal Government itself is pushing legislation to limit the use of social security numbers. In an effort to buy some time, the Amendment would make the effective date for HB 282 six months after passage, **EXHIBIT(fih38a09).**

REP. BALYEAT asked if there would be much difference if it were put off for 12 months. Did you think about the relationship of the timing on this in relationship to when people buy their hunting licenses? **REP. LASZLOFFY** said they did, and that is why

it is six months, which would allow eliminating them for the coming hunting season. **REP. BALLYEAT** said, assume the Governor puts off signing this as long as possible, six months beyond the end of April is the end of October; won't a lot of people have already purchased their current year conservation fishing and hunting licenses. **REP. LASZLOFFY** said yes, especially since we have to get the licenses for the drawings. **REP. BALLYEAT** asked, if that is the case, would you consider going to 12 months instead? **REP. LASZLOFFY** said yes, he would have no problem with that. Would go no less than six months. Would consider that a friendly alternative.

CHAIRMAN FUCHS speaks against the Amendment because DPHHS gave us the information that all the states not in compliance are still getting their money. So, there is no reason to put 6 or 12 months in here. If the new administration is already working on this, let's just force their hand. That is the way he sees it.

REP. BALES said 12 months wouldn't work because of the scenario **REP. BALLYEAT** worked out. If the Governor doesn't sign it until the end of April and 12 months after that for an effective date. The license year is March 2, 2002. There are conflicts, so a year wouldn't work, six months might.

REP. FACEY said he would agree with **CHAIRMAN FUCHS**. If we don't like being hog-tied by the Federal Government, let's vote for it. If we are going to stand on our principles, let's go for it.

REP. SHOCKLEY asked if this would have the collateral effect of hurting DPHHS if we don't put any Amendments on it? Would they be deprived of some money? **CHAIRMAN FUCHS** said no.

REP. LASZLOFFY said he would resist the attempt not to put an extension on there. Needs to do all he can to make sure the Bill makes it all the way through to the Senate and on to the Governor's desk. We need to make everyone understand that we are not trying to put those funds at risk. Is not here to force anybody's hand, is here to work through the system. Understands what the problem is. Wants the numbers off and wants the money too. He will try to do anything to get both of those.

REP. GOLIE said they did not get the fiscal note, so will not support the amendment. **REP. LASZLOFFY** said everyone should have gotten the fiscal note. It basically says there is no fiscal impact if the feds don't withhold the money, but if they do, there is a fiscal impact.

REP. CLARK said, with the Amendment, are you suggesting we attach that to Line 21 on page 3, and it would be six months after March

1, 2002? Basically, September 2002. Where does this fit into the license year? We are not affecting anyone for the next license year, because I will be buying my license real soon, and it won't protect me on my bow hunting license. So when is it going to protect me? **REP. LASZLOFFY** said they will have to go through one more season. If you want to hunt and fish, you will have to buy your tag and put your social security number on it for one more season. We can't get past that.

REP. JENT said Section 4, Lines 19-21 says with application for new hunting, fishing or trapping license or a new wildlife conservation license, this applies to license years beginning on or after March 1, 2002. The logistics aren't going to work, this license year is out. The effective date is a good idea, but suggests we kill the Amendment and go with the Bill as written.

Motion: **REP. CLARK** moved that **AMENDMENT 01 TO HB 282 DO PASS**.
Motion failed by voice vote.

Discussion:

REP. LASZLOFFY said **REP. JENT** is right, he had forgotten about that. He said that before the meeting today he gave the Committee a Memo dated 4/13/2000 from FWP that details a phone study that was done by FWP last spring in preparation for the Special Session, **EXHIBIT(fih38a10)**. They tried to get a feel for how many states were in compliance. At the time this study was done, the Federal Government was saying that all states were in compliance, and they still say that. When they called the states, compliance meant many different things. Some did not require social security numbers at all. Also gave the Committee information compiled by National Conference of State Legislatures (NCSL) compiled 11/1999, which also shows there are states that are not compliant, **EXHIBIT(fih38a11)**. There are no states to date that have had their funding taken away. Now that we have a different administration in D.C. and a different person in charge of Human Services, and now that the administration is beginning to work on legislation that will limit the use of social security numbers, the risk of losing the funds is not great.

REP. BALLYEAT said he spoke to Ron Marlenee and he related that he took a stand and refused to hunt and fish in Montana last season because of the social security number requirement. He wanted me to inform this committee if we pass HB 282 through the Legislature, he will personally lobby the Bush administration, for free, to remove this requirement.

CHAIRMAN FUCHS said he voted against this during the Special Session because he didn't believe this money would ever be yanked

in the first place. This has not happened to the states that have not complied. This is about the federal blackmail we always hear about. Said he will vote for this as it is, however.

REP. LASZLOFFY said the letter that is going out from Governor Martz is already drafted, the final letter will be sent any day.

REP. GALLUS asked when this got imposed on the states by the Federal Government? **REP. BALLYEAT** defers to **REP. FUCHS**, who said in Montana this happened in 1999.

REP. CLARK asked **CHAIRMAN FUCHS** why he is being reserved about the conceptual amendment? **CHAIRMAN FUCHS** said he wants to make sure the sponsor gets his Bill through. If he does a conceptual amendment, it might kill the Bill, and that is not his goal.

Legislative Staffer Doug Sternberg said as general information, whenever we deal with Fish and Game Licensing, the year begins 3/1/2001 and there will be a number of people coming in for their Wildlife Conservation Licenses and Fishing Licenses. The people who applied for it prior to the effective date of this act, would still be required to post their social security number. People who waited and didn't want to go fishing or were put off by this and waited, wouldn't have to. Logistically, this is why you will often see that changes in FWP laws are prospective, so that people who are issued a license at the beginning of the year and then the conditions of the license change, somehow would expect to have the same privilege applied to them retroactively and it's very difficult for the department to administer. That is why we generally delay the effective date on most provisions, and the applicability date is standard on a lot of FWP stuff.

Motion/Vote: **REP. LASZLOFFY** moved that **HB 282 DO PASS**. Motion carried 18-2 with Fritz and Gutsche voting no.

EXECUTIVE ACTION ON HB 388

Motion: **REP. GOLIE** moved that **HB 388 DO PASS**.

Discussion:

REP. GOLIE said we need HB 388 because there is no penalty for any public employee that chooses to use someone's social security number, no penalty for any private vendor that obtains the social security number, and, even if there is federal legislation that passes which does not require us to use our social security number, state law already says we have to use it.

REP. BALES said they just passed a Bill through the House which dealt with identity theft, which this is addressing, and we just passed HB 282; he feels those things are covered.

REP. FACEY said you might have a public or private employee who purposely or accidentally leaves the book at the store out so people walking by can read it, we have the theft, but we are trying to encourage those employees to keep that license book under wraps.

REP. SHOCKLEY said he doesn't think it would be covered. This is simple disclosure. The theft of identity requires you to actively do something, to take it and either use it yourself or cause somebody else to use it to effect a gain to someone or to hurt someone else. This is simply, you disclose it, you burn. It would be easier to prove.

REP. BALLYEAT asked **REP. GOLIE** if he was familiar with **SENATOR WELLS'** Bill and how the two compare? **REP. GOLIE** said he is vaguely familiar. **REP. BALLYEAT** asked if the Senate Bill deals with some of the same things, making it illegal for someone to disclose your social security number? **REP. GOLIE** said his Bill does not deal with the public employee or the private employee that uses the social security number. **REP. BALLYEAT** said he sees it as a weaker version of **REP. LASZLOFFY's** Bill and thinks it might cause some people to vote against his Bill, thinking they would pass yours instead. Would you be agreeable to amending out the parts of this Bill taking the social security numbers off the Hunting Licenses on a contingent basis, assuming we get the exemption, and just leaving the parts that impose a penalty if someone discloses your social security number? **REP. GOLIE** said he brought this Bill forward to address present law, and doesn't want any Amendments.

{Tape : 2; Side : A}

Legislative Staffer Doug Sternberg said there is a similarity between the three bills, and Legislative Services tries to coordinate those. The contingency language in the Senate Bill is similar but not identical to **REP. GOLIE's**, but that is not statutory language, and the directions to the code commissioner relative to when or if those federal exemptions are granted, could be coordinated. **REP. GOLIE's** Bill does have a distinctive difference from both of the other proposals in that he has the disclosure language in his Bill. Depending on which of the proposals pass, and if they all pass, we would attempt to somehow reconcile those. If in fact there is a conflict, the sponsors would be notified by our office and we would look at all the Bills and recommend to the sponsors any amendments that might be

necessary. We try very hard not to pass statutes here in two separate vehicles that conflict with each other. If there is an indication that might happen, our office would notify the sponsors and attempt to reconcile that before any of the Bills were passed into law. At this point, they are distinctively different enough that they can stand on their own merits. If both **REP. GOLIE's** and **SENATOR WELLS'** Bills passed, the contingency language could be coordinated. They are not identical, but they are pretty close. The legislature does track similar Bills, they have a Sections Effective List that gives a read-out on all Bills in the process that affect the same statute. If it appears there will be a bonafide legal conflict; if two or more measures pass affecting the same section, they will make every attempt to reconcile those differences before the statute passes, so they don't end up with an unworkable law.

CHAIRMAN FUCHS said he wanted Doug Sternberg to explain this, so that if there was a way to amend the Senate Bill that is coming this way, we can amend one Bill into another. We have 180 bills to do and need to cut the numbers down.

Motion/Vote: **REP. GOLIE** moved **HB 388**. Motion failed 9-11 with Gutsche, Shockley, Facey, Tramelli, Clark, Gallus, Thomas, Devlin, and Golie voting aye.

Motion/Vote: **REP. FUCHS** moved that **HB 388 BE TABLED**. Motion passed 11-9 with Balyeat, Laszloffy, Bales, Jent, Steinbeisser, Fritz, Ripley, Rice, Rome, Fuchs and Barrett voting aye.

EXECUTIVE ACTION ON HB 454

Motion: **REP. CLARK** moved that **HB 454 BE ADOPTED**.

Motion: **REP. CLARK** moved that **AMENDMENT 01 TO HB 454 DO PASS**.

Discussion:

REP. CLARK said the Amendment **EXHIBIT(fih38a12)**, sets an immediate date, gives a permit to the landowner at no cost; eliminates the 5,000 acres, makes it open ended; eliminates the double jeopardy for the cooperating landowner in the state hunter management program, hunting access enhancement program or block management program; limits total number of permits to 20%; stipulates that the remaining 80% must be issued to the public on a first-come, first-serve basis; inserts the landowner's designee; and is effective on passage and approval. Amendments were discussed at the hearing.

REP. JENT said he supports the Amendments. This is a good Bill and the Amendments make it more workable. It honors landowner

participation for those who do not choose to be part of block management.

REP. BARRETT asked if you still have to open your property up for hunting? **REP. CLARK** said yes, but you don't have to have a specific amount of acreage to qualify.

Motion/Vote: **REP. CLARK** moved that **AMENDMENT 01 TO HB 454 DO PASS. Motion carried unanimously.**

Motion: **REP. CLARK** moved that **HB 454 AS AMENDED DO PASS AS AMENDED.**

Discussion:

REP. BARRETT said she will not vote for HB 454. Where they live, FWP already has the authority to come in if they are having problems with game animals and issue licenses. FWP did this at their ranch this year, and harvested three. The reason she will not vote for this, they had no elk there until right at the end of the season, so to open up the property to hunting and risk weeds, wouldn't be worth while to get rid of three elk. **REP. CLARK** said it is permissive. No one has to open their property if they don't want to participate. This is for the landowner, they don't just get an A-7 tag which is cows only; they get an opportunity to take a bull, and it is for a landowner who is a hunter. Those that aren't hunters do not have to participate, those that are hunters, can hunt if they want to.

Motion/Vote: **REP. JENT** moved that **HB 454 AS AMENDED DO PASS AS AMENDED. Motion carried 16-4 with Bales, Barrett, Rice, and Ripley voting no.**

EXECUTIVE ACTION ON HB 520

CHAIRMAN FUCHS said HB 520 authorizes students a three day release from school to hunt or participate in hunter safety education.

Motion: **REP. CLARK** moved that **HB 520 DO PASS.**

Discussion:

REP. FACEY said he had a conceptual amendment. On Line 15, after the words "hunting activity release time program," would like to add "warm water, cold water sports fishing release time".

REP. CLARK said he is going to resist all amendments on this. Hunting season occurs only during school. There might be other things that occur only during school, but can't think of many. It is extremely tempting to put your favorite activity on this Bill, but it misses the point.

REP. FACEY said he would withdraw his Amendment. Asks about the word "may" on Line 24, "the release time may not adversely affect". Is that permissive language? **Legislative Staffer Doug Sternberg** said this whole Bill is permissive. **REP. FACEY** said he is concerned that the employer types or legislative types know that word is permissive.

REP. GALLUS added that he talked with **REP. CLARK** and noted this Bill is going to be used most often on the same three days every year; between November 22-25. That is Thanksgiving Week. They get half of Wednesday, all of Thursday and Friday off anyway, so families can leave the weekend before and not have Monday, Tuesday and half of Wednesday count against them. They can spend the whole week up in the hills. Really likes the Bill.

REP. DEVLIN said he is not a hunter, but likes quality time with the family. Doesn't put hunting into a special category above any other family activities. Resist voting for this Bill, because there is nothing special about hunting over any other family activity, whether it is skiing, going to a ball game, etc.

REP. THOMAS offers a substitute Amendment. In their family, they hunted all fall and skied all winter. Had conversation with a Principal who said there is no day those kids can spend in school that will be any more valuable than one they spend in the mountains with family. This is a great Bill, but doesn't believe it should be reserved for one sport only. There are a lot of families who don't hunt, but do ski, etc. Feels this Bill should increase the number of activities, and leave the choice to the family. He will let **REP. RIPLEY** speak before offering Amendment.

REP. RIPLEY said as brought up in testimony, most schools have the 10 day policy, and a lot of kids are absent from school for hunting from seven to eight days. Some are absent seven days for hunting, three days for skiing. This Bill doesn't do anything but suggest policy. Doesn't think the Bill is needed.

REP. CLARK said **REP. RIPLEY** makes the point. If students are going to be out eight days, they are going hunting anyway. But this says the hunting time won't contribute to the 10 days of absence. What if they went hunting and used up their days, then got sick? Soon they are at 13 days, do they lose their credit? Hunting is the only activity we have had that came before this

Committee, that we have considered as a Constitutional right. That's how important this activity is to our heritage.

REP. THOMAS said he would not move his Amendment in consideration of what **REP. RIPLEY** said. The way he looks at it, 10 days is sufficient. Pushing it on to 13 days is excessive.

REP. BALES said he would oppose this Bill. There is ample opportunity. Ranching is a heritage also. Do I need three days off for my kids to help me do the roundup in the fall? Should that be an excused absence? How many of these excused absences are we going to do throughout the year? We want to place emphasis on structured education and have our students come out of this state being at the top of the Nation if we can, yet we are saying it is okay for them to miss 10 days excused, and then we are going to add another three on. If you look at school, it is similar to this body of people here. How many of us could have missed three days here and still do justice to what we are expected to do here. When you relate that to school, as you go through school, everyone of those teachers has a lesson plan and they teach something every day that builds on the previous days lesson. Each day a student is gone, they miss something important. If we truly believe that education is important, and it is; there are weekends and vacations for families. Doesn't think we need to add an additional three days.

REP. FACEY said it is really an honor to follow that speech. It was very well said. For the Committee's information, most of these schools have 10 days out of 90. That is one day out of every two weeks. In America we do one thing really good; we work hard. You have to make choices. When you get 10 days out of 90 to do what you want to do; that doesn't mean you got sick. It means you're out of there if you want to be; and this extends it. There are choices to make here. **REP. BALES** hit it on the head; but this is 10 days out of every 90.

REP. BALYEAT said **REP. BALES** has made two arguments. One that there are other things that are part of our heritage too, such as ranching. Agrees with that, but hunting is the one thing that is only during the school year that is part of our heritage. The second argument is they are missing school. If you look at Lines 19-21, it says that the school district may require a report about this hunting activity. That would be an incredible learning experience and may do far more in terms of preparing those kids for life later on, than three years in a classroom. Will vote for the Bill, doesn't think any of these other arguments hold water in light of those distinctions.

REP. GALLUS said in response to **REP. BALES** eloquent speech, you can talk about school days or you can talk about days outside of school. He missed over 40 days of his senior year in high school, both semesters combined. Every one was spent hunting, fishing or skiing, and with his parents approval, for the 10 days he had a doctor's excuse for each semester too. His point is that he did well when he got to college, he got 3.5 grade average there. He did great, and he is sitting in the Montana House of Representatives today. He missed a lot of school, but is doing pretty good. Please support the Bill.

Motion/Vote: **REP. GALLUS** moved that **HB 520 DO PASS. Motion failed 10-10 with Balyeat, Laszloffy, Jent, Steinbeisser, Tramelli, Clark, Gallus, Rome, Golie and Fuchs voting aye.**

EXECUTIVE ACTION ON HB 492

CHAIRMAN FUCHS said HB 492 would give FWP authority to manage the prairie dog as a species in need of management.

Motion: **REP. CLARK** moved that **HB 492 DO PASS.**

Motion: **REP. CLARK** moved that **AMENDMENT TO HB 492 BE ADOPTED.**

Discussion:

REP. CLARK said his Amendment would address control of prairie dogs on State Trust Lands. See Page 3, Line 2-4; after "chapter 7, part 11". The Amendment inserts a new sentence. "Control by landowners on private lands, and control by the Department of Natural Resources and Conservation on State Trust Lands is permitted as long as the management and control are consistent with the management plan approved by both the Department and the Department of Agriculture". This Amendment is a compromise to satisfy both the stock growers and the Farm Bureau and the private land owners and the needs of FWP to have a management plan. This Amendment is moved in lieu of the one suggested by the stock growers.

REP. BALES said this does not address the main concern. This Amendment says the landowners can control the prairie dogs, provided it is in agreement with the plan they put out. What happens if that plan says you can't reduce the size of your prairie dog towns, then we have a defacto listing on the prairie dog and you are saying the landowner can't go ahead and control. There is a better way of doing it; other language that needs to be used. Would vote against this Amendment. It does not protect private property and does not protect the landowners ability to control the prairie dogs on his property.

Legislative Staffer Doug Sternberg said he has Amendments, but because of the computer glitch was unable to put them onto paper. Conceptually, he has four different suggestions.

CHAIRMAN FUCHS said the Committee would first discuss **REP. CLARK's** Amendment. If no discussion, would vote on it, then **REP. BALES** can offer his Amendment.

REP. CLARK said the only reason there is a need for this Bill is if there is a management plan that has been approved by both the FWP and the Department of Agriculture. Doesn't see that as an issue. If we don't allow the management plan to have the approval of both the Department of Agriculture and FWP to give us guidance, we might as well not have a management plan. We aren't doing anything, and there is no need for the Bill.

Motion: **REP. CLARK** moved that **REP. CLARK'S AMENDMENT TO HB 492 DO PASS**. This was a voice vote, and the NO's have it.

REP. BALES has an Amendment. See Page 3, Line 4, following "part 11": insert "and control of the Department of Natural Resources and Conservation on State Lands". Page 3, Line 5, following "by": strike "both" , following "department": insert "Department of Natural Resources and Conservation", Page 3, Line 6, following "agriculture": insert "nothing in this part shall be interpreted to limit a landowner's ability to control prairie dog concentration in unacceptable locations on private lands".

REP. CLARK said this is nothing different than what we have now. If we are going to have a plan that has any credibility, the plan has to have something behind it. Otherwise there is no plan. Questions why we need additional language to keep the status quo.

REP. SHOCKLEY said he would make a motion to Table. If we are going to keep amending this and then kill it, we have wasted a lot of time. If we have enough votes to Table, there is no point in playing with it; if we don't then we will try and fix it.

Motion/Vote: **REP. SHOCKLEY** moved that **HB 492 BE TABLED**. Motion carried 11-9 with Gutsche, Facey, Bales, Jent, Tramelli, Clark, Fritz, Gallus and Golie voting no.

EXECUTIVE ACTION ON HB 554

CHAIRMAN FUCHS said HB 554 will increase certain nonresident hunting and fishing fees; and require that a nonresident possess a wildlife conservation license as a prerequisite to the purchase of a wild turkey tag.

Motion: REP. JENT moved that HB 554 DO PASS.

CHAIRMAN FUCHS said suggested Amendments were offered previously by Montana Outfitters and Guides; does anyone want to move those Amendments? (No one responded to his question)

Discussion:

REP. BARRETT said she would vote no, because nonresidents already pay a disproportionate amount. In light of the recent FWP commission in her area of two rivers that her constituents depend heavily upon, the guiding and the outfitting is controlled on those rivers, and now it would make it even harder for out of state fishermen to come in. Can't support that.

REP. GALLUS said he would support it. Most places that he goes; Idaho, Washington are double or triple what we are charging. Rivers in British Columbia are \$15, \$20, and \$25 a day on top of the fishing license. Montana is a special place, fishing wise. If they are getting off cheap, we ought to stick it to them a little bit and pass the Bill.

REP. BALES said he has a problem. We are looking at a tight budget in the Legislature, yet we have a budget before us that is running surpluses out to the year 2005. We are looking at raising fees to give them more money, while they still have a big surplus, and will have a surplus clear through the next biennium. Yet we once again are looking to stick it to the nonresidents. If we need to raise fees, and if fishing is that good, we should also be looking at an increase for the residents at the same time. We are getting very close to the day, when nonresidents will once again take this state to court about the difference between the price of resident licenses, as compared to nonresident licenses on deer, elk, etc., and they will point to the considerable amounts of public lands in this state which the game is on, which they hunt on, and it is the state's responsibility to manage that game. That case went to court once, and isn't very far from going there again. We need to step back and take a look at this and come with a comprehensive fee increase or license increase next session, rather than doing this just on the nonresidents at this point.

REP. FACEY said this points out the disconnect in our Committee system. We have one Committee such as this one, that sets the policy, another Committee in Appropriations that sets budget, and we can talk about Health and Human Services. Next session, will put this in a Bill so we can take care of this. We set policy and someone else sets budget, that happens numerous times.

CHAIRMAN FUCHS said one of the things that covers this disconnect is experience and serving on different committees and learning that is the way it works.

REP. GOLIE said two years ago, this session came out with \$5 increase for warm water fisheries, certain lakes mostly in Northern and Eastern Montana. A lot of everyday fishermen and hunters didn't appreciate just that \$5. He would rather raise the fees for the nonresident than go back home and tell his constituents that he is going to raise their fees because he didn't want to do it for the nonresidents. Have to understand, we're 50th in income in Montana, and how much of this can we afford? Hopes everyone will support this Bill.

REP. RICE said before there is an increase in the rates, why not a thorough look at the program. Possibly there are some heavy things that could be cut; then the increase would not be needed.

REP. CLARK said it is interesting someone would take FWP to court on their price difference. What would they do, sue us, because we don't charge as much as Idaho? We talk about fair market value, then we selectively apply fair market value in one area, and in another area say we aren't going to do it there. Nonresidents pay a fair share, but not as much of a share as they pay in some nearby states. What problem would we have if we open this up to market value in one area, such as license fees, but not in other areas.

REP. RIPLEY said he would oppose this Bill. Would rather hold off raising fees as long as we can, not only on nonresidents, but on residents too. Need to do whatever we can to encourage tourism and business in the state.

REP. GALLUS said he understands what **REP. BALES** is saying, and he has a point. Some advice to the Committee, don't campaign on that next time, because you won't be coming back.

REP. BALYEAT said this is really tough because he and many others have taken a pledge not to raise taxes and mandatory fees. This is a voluntary fee to nonresidents,; they don't have to come and hunt in Montana. Will agree there is a big disparity between what residents and nonresidents pay. But as residents, we pay the price; we have the highest income tax rate in the country. Has clients in his practice that weigh that decision; should they stay a Montana resident and pay the highest income tax rate in the country so they can have resident licenses, or should they take up residency 200 miles South in Wyoming and pay the nonresident hunting fee. It is a free market decision. Will vote for this.

Motion/Vote: REP. THOMAS moved that HB 554 DO PASS. Motion carried 11-9 with Barrett, Shockley, Bales, Steinbeisser, Ripley, Rice, Thomas, Devlin, and Fuchs voting no.

EXECUTIVE ACTION ON HB 538

CHAIRMAN FUCHS said HB 538 deals with hunter safety and education courses for a first-time applicant for a Montana hunting license.

Motion: REP. CLARK moved that HB 538 DO PASS.

Discussion:

REP. FACEY said if he doesn't buy a hunting license this year, skips a year and buys one the following year, will it be necessary to take this class? **REP. CLARK** said no.

REP. CLARK has a conceptual amendment. On Page 4, Line 6, that this be postponed to 2003 instead of 2002. This way people that want to can buy a license before then and they won't have to take the class.

Motion/Vote: REP. JENT moved that CLARK'S AMENDMENT TO HB 538 DO PASS. Motion carried unanimously.

Motion: REP. CLARK moved that HB 538 AS AMENDED DO PASS AS AMENDED.

Discussion:

REP. BALYEAT said he has another amendment. If this is really targeted at newcomers who know very little about hunting, we need to make an exemption. Would exempt anyone who has been a resident of Montana for more than five years and their parent or spouse is a licensed hunter.

REP. SHOCKLEY said he hadn't bought a hunting license for several years, but he might want to go hunting again. He didn't want to have to take a course. Will support **REP. BALYEAT's** Amendment.

Motion: REP. BALYEAT moved that BALYEAT'S AMENDMENT TO HB 538 DO PASS.

Discussion:

REP. CLARK said he will support the amendment.

REP. DEVLIN said he opposes the Amendment. As a landowner, if you want to group people, the worst group that you get are residents. Just because you are a resident, doesn't make you any better or worse a hunter than anyone from another state.

REP. SHOCKLEY said he withdraws his support.

REP. CLARK said we currently have a program for kids under age 18. When they get their first license, they have to go to a hunter education program. Have to be careful, as we need to preserve the integrity of that program for the kids. Is reconsidering his position.

REP. LASZLOFFY said could change it to six years; that would solve the problem.

CHAIRMAN FUCHS said he could find no compelling need for this legislation in the Hearing, will offer a substitute motion to Table this Bill.

{Tape : 2; Side : B}

Substitute Motion/Vote: **REP. FUCHS** made a substitute motion that **HB 538 BE TABLED. Substitute motion carried 12-8 with Balyeat, Barrett, Bales, Devlin, Fuchs, Gallus, Laszloffy, Rice, Rome, Shockley, Steinbeisser, and Thomas voting no.**

REP. LASZLOFFY said we had 2.5 injuries with a firearm last year in Montana. The national average is 24, so it is not a problem. In the last 16 years, there were 17 grizzly bears killed.

EXECUTIVE ACTION ON HB 264

Motion: **REP. BALYEAT** moved to remove HB 264 from the Table for reconsideration, strip the WHEREAS Clauses and that **HB 264 DO PASS.**

Discussion:

REP. BALYEAT said HB 264 is the right to hunt Bill.

CHAIRMAN FUCHS said he had been advised there were three people willing to change their vote. Wants to make this vote to bring it back off the Table without discussion. Don't want to waste any time on this.

REP. CLARK said he wants to know what language the Bill will have? **CHAIRMAN FUCHS** it would be brought back in the form that

it was in and we will deal with anything we want to take off one at a time.

REP. BALLYEAT when we moved to Table this Bill, he felt that many people didn't understand it wasn't just until the next day, it was indefinitely. Many members of the Committee have received a lot of E Mail from the NRA, etc., so wants to bring it back.

REP. SHOCKLEY said he just agreed to bring it off the Table.

REP. BALES said we could bring it off the Table but he has serious problems with it.

REP. GOLIE said he wants to know exactly what form it is in, as he no longer has the Bill or the amendments.

REP. RIPLEY said the Amendments passed were 26403 and 26404.

CHAIRMAN FUCHS said we are finding ourselves in a very different position than we have been in before, with our Staffer being unable to do Amendments. This Bill was amended several times, to bring this Bill off the Table, we have to decide right now if we want to take this Bill off the Table and spend the time to straighten it out and get it in its original form or to a form where we can even vote on it again.

REP. BALLYEAT asked if they could pass on it until Saturday and he will have copies of all the Amendments and the Bill for everyone on the Committee.

CHAIRMAN FUCHS said your motion is to postpone it until Saturday and you will bring it back to the Committee in the form that it should be in with the Amendments that were passed on it.

REP. BALLYEAT said he will have the Amendments separately and the Bill.

Motion: **REP. BALLYEAT** moved to postpone until Saturday removing HB 264 from the Table for reconsideration. Motion carried by voice vote, with 13 Aye and 7 No votes.

ADJOURNMENT

Adjournment: 6:08 P.M.

REP. DANIEL FUCHS, Chairman

LINDA KEIM, Secretary

DF/LK

EXHIBIT (fih38aad)